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Of Attorneys for Roy MacMillan, Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

RODA, LLC,  
and  
Roy MacMillan,

Debtors-in-Possession.

Bankruptcy Case Nos.:

23-30250-thp11 (Lead Case)

23-30159-thp11

Jointly Administered Under  
Case No. 23-30250-thp11

DEBTORS' JOINT MOTION TO EXTEND:  
(1) THE EXCLUSIVITY PERIODS  
PURSUANT TO 11 U.S.C. § 1121(d);  
AND (2) DEADLINE TO ASSUME OR  
REJECT LEASES OF NONRESIDENTIAL  
REAL PROPERTY; REQUEST FOR  
JUDICIAL NOTICE

## NOTICE

If you oppose the proposed course of action or relief sought in this motion, you must file a written objection with the bankruptcy court no later than fourteen (14) days after the date listed in the certificate of service below. If you do not file an objection, the court may grant the motion without further notice or hearing. Your objection must set forth the specific grounds for objection and your relation to the case. The objection must be received by the Clerk of Court at the U.S. Bankruptcy Court, 1050 SW 6th Ave., 7th Floor, Portland, Oregon by the deadline specified above or it may not be considered. You must also serve the objection on Douglas R Ricks, Vanden Bos & Chapman, LLP, 319 SW Washington St., Ste. 520, Portland, OR 97204 and Thomas W. Stilley, Sussman & Shank LLP, 1000 S.W. Broadway, Suite 1400, Portland, OR 97205-3089, Phone: (503) 227-1111, within that same time. If the Court sets a hearing, you will receive a separate notice listing the hearing date, time, and other relevant information.

## MOTION

Debtors-in-Possession, RODA, LLC and Roy MacMillan (collectively the “Debtors”) move the Court for entry of the proposed order attached hereto as **Exhibit A** (“Proposed Order”) based on the following:

- a) Pursuant to 11 U.S.C. § 1121(d), extending by sixty (60) days or through and including **August 7, 2023** the expiration of the exclusivity period in 11 U.S.C. § 1121(b);
- a) Pursuant to 11 U.S.C. § 1121(d), extending by ninety (90) days or through and including **August 7, 2023** the expiration of the exclusivity period in 11 U.S.C. § 1121(c)(3); and

- b) Extending by sixty (60) days, or through and including **September 5, 2023**, the deadline for the Debtors to assume or reject all unexpired leases of nonresidential real property under 11 U.S.C. § 365(d)(4)(A).

In support of this Motion, the Debtors state and represent as follows:

1. Debtor-in-Possession Roy MacMillan ("MacMillan") filed a petition for relief with the Court on January 25, 2023 and Debtor-in-Possession RODA, LLC ("RODA") filed a petition for relief with the Court on February 6, 2023. The Court entered an Order Directing Joint Administration of Chapter 11 Cases (Doc 43) on February 28, 2023. On March 9 2023 the Court entered Orders in both cases extending the exclusivity periods to June 6, 2023 based on the Court's determination that certain scheduling deadlines should be aligned and established. Section 1121(b) of the United States Bankruptcy Code (the "Code") provides that only the debtor may file a plan within the 120 days after the date of the order for relief. Section 1121(c) of the Code further provides that a party in interest other than the debtor may file a plan only if (1) a trustee has been appointed; (2) the debtor has not filed a plan before 120 days after the date of the order for relief; or (3) the debtor has not filed a plan that has been accepted before 180 days after the date of the order for relief under this chapter, by each class of claims or interests that is impaired under the plan. The day 120 days after the date of the orders for relief in the MacMillan's case is May 25, 2023 and June 6, 2023 in RODA's case, and the 180 days after the date of the orders for relief in the MacMillan case is July 24, 2023 and August 7, 2023 in RODA's case.

2. Section 1121(d) provides that the periods specified in Section 1121(b) and (c) may be extended for cause. Factors used to evaluate "cause" include (1) number of prior extensions; (2) complexity of the case; (3) duration of time since the filing of the case; (4) whether the debtor appears to be proceeding in bad faith; (5) improved operating revenues

so that the debtor was paying current expenses; (6) a reasonable prospect for filing a viable plan; (7) whether the debtor was making satisfactory progress negotiating with key creditors; (8) whether the debtor was seeking an extension of exclusivity to pressure creditors; and (9) whether the debtor was depriving the Committee of material or relevant information. *In re Henry Mayo Newhall Memorial Hosp.*, 282 B.R. 444, 452 (9<sup>th</sup> Cir. BAP 2002). The primary consideration is whether adjustment of exclusivity will facilitate moving the case forward toward a fair and equitable resolution. *Id.* at 453.

3. During the pendency of the case thus far, Debtors have made significant progress. After securing a court order authorizing the RODA to utilize cash collateral, the RODA has been operating in the ordinary course. Debtors have been approached with a framework for a possible sale transaction that will facilitate a confirmable plan of reorganization. In addition, Debtors have been in discussions with key creditors about the status of such sale negotiations and the possible treatment of creditors' claims in a plan of reorganization. However, much of this work and analysis will depend on the terms of the sale transaction which will only be clear after the expiration of the exclusivity period. This evidences good faith by the Debtors toward formulating a Plan of reorganization.

4. Without the extension of the exclusivity periods, the exclusivity periods will lapse on **June 6, 2023**. Cause to extend the exclusivity periods exists here where Debtors have conducted themselves with good faith and are progressing towards reorganization.

5. Similarly, these same events (possible sales or other transactions) will impact the Debtors' decision making and assumption or rejection of nonresidential real property leases.

6. Without the extension of the period to accept or reject nonresidential real property leases in 11 U.S.C. § 365(d)(4)(A), the deadline to accept or reject nonresidential

real property leases will lapse on **June 6, 2023**. Cause to extend the deadline to accept or reject nonresidential real property leases exists here where Debtors have conducted themselves with good faith and are progressing towards reorganization as stated above.

7. Evidence of the progress made towards a reorganization as outlined in paragraph 3 above, may be found in the submissions and records in the Court's docket, specifically: Doc 46 - Final Order Authorizing Use of Cash Collateral and Doc 82 - Order Authorizing Employment of Real Estate Broker (Hilco Real Estate, LLC). Debtors request that the Court take judicial notice of these submissions and orders in connection with its consideration of "cause" under 11 U.S.C. §§ 365(d)(4)(B) and 1121(d).

WHEREFORE, Debtors respectfully request that the Court extend the exclusivity period in 11 U.S.C. § 1121(b), extend the exclusivity period in 11 U.S.C. § 1121(c)(3), and extend the deadline under 11 U.S.C. § 365(d)(4)(A) as requested herein.

DATED: May 16, 2023

VANDEN BOS & CHAPMAN, LLP

SUSSMAN SHANK LLP

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB #044026  
Christopher N. Coyle, OSB #073501  
Of Attorneys for RODA, LLC,  
Debtor-in-Possession

By: /s/Thomas W. Stilley  
Thomas H. Stilley, OSB # 883167  
Joshua G. Flood, OSB No. #223085  
Of Attorneys for Roy MacMillan,  
Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

RODA, LLC,  
and  
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Debtors-in-Possession.

Bankruptcy Case Nos.:

23-30250-thp11 (Lead Case)

23-30159-thp11

Jointly Administered Under  
Case No. 23-30250-thp11

ORDER GRANTING DEBTORS' JOINT  
MOTION TO EXTEND: (1) THE  
EXCLUSIVITY PERIODS PURSUANT  
TO 11 U.S.C. § 1121(d); AND (2)  
DEADLINE TO ASSUME OR REJECT  
LEASES OF NONRESIDENTIAL REAL  
PROPERTY; REQUEST FOR JUDICIAL  
NOTICE

Based on the Joint Motion to Extend the Exclusivity Periods Pursuant to 11 U.S.C. § 1121(d) and to Extend the Deadline to Assume or Reject Leases of Nonresidential Real Property and the Request for Judicial Notice filed by Debtor-in-Possession, RODA, LLC and Debtor-in-Possession Roy MacMillan (collectively the "Debtors") (Doc \_\_), the Court having

taken judicial notice as requested by the Debtors, and having good cause for the Motion, and being otherwise fully advised, it is

ORDERED that Debtors' Motion is granted as follows:

1. The exclusivity period contained in 11 U.S.C. § 1121(b) is extended to and including August 7, 2023;

1. The exclusivity period contained in 11 U.S.C. 1121(c)(3) is extended to and including September 5, 2023; and

2. The deadline to assume or reject nonresidential real property leases in 11 U.S.C. § 365(d)(4)(A) is extended to and including August 7, 2023.

###

**PRESENTED BY:**

VANDEN BOS & CHAPMAN, LLP

SUSSMAN SHANK LLP

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB #044026  
Christopher N. Coyle, OSB #073501  
Of Attorneys for RODA, LLC  
Debtor-in-Possession

By: /s/Thomas W. Stilley  
Thomas H. Stilley, OSB # 883167  
Joshua G. Flood, OSB No. #223085  
Of Attorneys for Roy MacMillan  
Debtor-in-Possession

**LBR 9021-1 CERTIFICATION**

I certify that I have complied with the requirement of LBR 9021-1(a); Order circulated as Proposed Order to Motion.

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB #044026  
Christopher N. Coyle, OSB #073501

**First Class Mail:**

RODA, LLC  
Roy MacMillan  
20407 SW Borchers Dr.  
Sherwood, OR 97140

Roy MacMillan  
17815 NE Courtney Rd  
Newberg, OR 97132

**Electronic Mail:**

The foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system

CERTIFICATE - TRUE COPY

DATE: May 16, 2023

DOCUMENT: DEBTORS' JOINT MOTION TO EXTEND: (1) THE EXCLUSIVITY PERIODS PURSUANT TO 11 U.S.C. § 1121(d); AND (2) DEADLINE TO ASSUME OR REJECT LEASES OF NONRESIDENTIAL REAL PROPERTY; REQUEST FOR JUDICIAL NOTICE

I hereby certify that I prepared the foregoing copy of the foregoing named document and have carefully compared the same with the original thereof and it is a correct copy therefrom and of the whole thereof.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing on:

RODA, LLC  
Roy MacMillan  
20407 SW Borchers Dr.  
Sherwood, OR 97140

Roy MacMillan  
17815 NE Courtney Rd  
Newberg, OR 97132

by mailing a copy of the above-named document to each of the above in a sealed envelope addressed to the last known address. Each envelope was deposited into the postal system at Portland, Oregon, on the below date, postage prepaid.

I hereby certify that the foregoing was served on all CM/ECF participants through the Court's Case Management/Electronic Case File system on the date set forth below.

Dated: May 16, 2023

VANDEN BOS & CHAPMAN, LLP

By: /s/Douglas R. Ricks  
Douglas R. Ricks, OSB #044026  
Christopher N. Coyle, OSB #073501  
Of Attorneys for Debtor-in-Possession